



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/587,236	06/02/2000	Oran M. Thomas	KEYL-001/02US	-7640

7590

10/03/2003

PILLSBURY WINTHROP LLP  
INTELLECTUAL PROPERTY GROUP  
11682 EL CAMINO REAL  
SUITE 200  
SAN DIEGO, CA 92130

EXAMINER
----------

BOUTAH, ALINA A

ART UNIT	PAPER NUMBER
----------	--------------

2143

DATE MAILED: 10/03/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

3

## Office Action Summary

Application No.

09/587,236

Applicant(s)

THOMAS ET AL.

Examiner

Alina N Boutah

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of claims 1-21 and 23-28 in Paper No. 9 is acknowledged.

### ***Specification***

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-21, and 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,796,952 issued to Davis et al. (hereby Davis).

Art Unit: 2143

Regarding claim 1, Davis teaches a system for monitoring usage of an electronic device comprising:

a client component installed in a client device, said client component being operative to monitor usage of said client device in accordance with a monitoring profile and to generate corresponding usage data (figure 3; Abstract; col. 4, line 3 to col. 5, line 55); and

a server component, installed on a server device in communication with said client device, for providing said monitoring profile to said client device and for receiving said usage data from said client device (figure 4; Abstract; col. 4, line 3 to col. 5, line 55).

Regarding claim 2, Davis teaches the system of claim 1 further including a data management component disposed to store said monitoring profile and to store said usage data provided to said server device (col. 4, line 63 to col. 5, line 3).

Regarding claim 3, Davis teaches the system of claim 1 wherein said monitoring profile includes information specifying which application programs, and which features of said application programs, installed on said client device are to be monitored by said client component (col. 5, lines 35-44).

Regarding claim 4, Davis teaches the system of claim 3 further including a profile management component for creating said monitoring profile, said monitoring profile including a plurality of application profiles each associated with one of said application programs (col. 5, lines 35-44).

Regarding claim 5, Davis teaches the system of claim 1 further including a data analysis component for, based upon said usage data, determining usage statistics associated with application program installed on said client device wherein said usage statistics include measurements of usage time, number of uses, and sequence of usage of specified ones of said application programs (col. 4, lines 13-15, 25-32, 41-53).

Regarding claim 6, Davis teaches the system of claim 1 further including a profile management component for creating and editing said monitoring profile, said monitoring profile specifying which application programs installed on said client device are to be monitored and a frequency with which said usage data is to be reported to said server component (col. 4, line 64 to col. 5, line 3).

Regarding claim 7, Davis teaches the system of claim 5 wherein said profile management component allows for definition of a set of users of said client device to be monitored in accordance with said monitoring profile (Abstract).

Regarding claim 8, Davis teaches the system of claim 1 wherein said client component includes a client monitoring agent for collecting said usage data in accordance with said monitoring profile and for providing said usage data to said server component, said client component further including a client service for requesting said monitoring profile from said

Art Unit: 2143

server component and for starting said client monitoring agent upon receipt of said monitoring profile from said server component (figure 3; Abstract; col. 4, line 3 to col. 5, line 55).

Claim 9 is similar to claim 1 except there are a plurality of client components installed on a plurality of client computers, therefore is similarly rejected under the same rationale (figures 1 and 4; Abstract; col. 4, line 3 to col. 5, line 55).

Regarding claim 10, Davis teaches the system of claim 9 further including a data management component disposed to store said monitoring profiles and to store said usage data provided to said server component from each of said client components (figure 3).

Claim 11 is similar to claim 3 therefore is rejected under the same rationale.

Regarding claim 12, Davis teaches the system of claim 11 further including a profile management component for creating each of said monitoring profiles that each of said monitoring profiles includes a plurality of application profiles, each of said application profiles being associated with one of said associated application programs (figure 6).

Regarding claim 13, Davis teaches the system of claim 9 further including a profile management component for creating each of said monitoring profiles and for specifying which of said monitoring profiles will be applicable to usage of said client computers by particular users (figure 6).

Art Unit: 2143

Regarding claim 14, Davis teaches a method for monitoring computer usage comprising the steps of:

monitoring usage of each of a plurality of client computers in accordance with an associated monitoring profile (Abstract; figures 1 and 3; col. 4, line 3 to col. 5, line 55);

generating usage data based upon said monitoring and providing said usage data to a server computer (Abstract; figures 1 and 3; col. 4, line 3 to col. 5, line 55); and

transmitting said monitoring profiles to said client components from said server computer (Abstract; figures 1 and 3; col. 4, line 3 to col. 5, line 55).

Regarding claim 15, Davis teaches the method of claim 14 further including the step of storing said monitoring profiles remote from said client computers, and the step of storing said usage data provided to said server component from each of said client components (figure 4).

Regarding claims 16 and 17, these are similar to claims 11 and 12, respectively, therefore is rejected under the same rationale.

Regarding claim 18, this is similar to claim 7, therefore is rejected under the same rationale.

Regarding claim 19, Davis teaches the system of claim 3 wherein said client component includes means for monitoring usage statistics for specified features of said application program

Art Unit: 2143

via predefined application programming interfaces of said application programs (col. 4, lines 13-15, 25-32, 41-53).

Regarding claim 20, Davis teaches the method of claim 16 further including the step of monitoring usage statistics for specified features of said application programs via predefined application programming interfaces of said application programs (col. 4, lines 13-15, 25-32, 41-53).

Regarding claim 21, Davis teaches a method for monitoring user interaction with an application executing on a client device, said application being downloaded to said client device from a remote location, said method comprising the steps of:

- embedding a reference to a collection agent with said application (Abstract);
- resolving said reference and installing said collection agent on said client device (Abstract);

- monitoring usage of said client device in accordance with a monitoring profile and generating corresponding usage data (Abstract; figures 1 and 3; col. 4, line 3 to col. 5, line 55);
- and

- transmitting, from a monitoring location, said monitoring profile to said collection agent and receiving said usage data at said monitoring location (Abstract; figures 1 and 3; col. 4, line 3 to col. 5, line 55).



Art Unit: 2143

Regarding claim 25, this is similar to claim 21, therefore is rejected under the same rationale.

Regarding claim 26, Davis teaches the method of claim 25 further including the steps of measuring performance characteristics based upon said usage data and transmitting said performance characteristics to said monitoring server (col. 4, lines 38-55).

Regarding claim 27, Davis teaches the method of claim 25 wherein said step of embedding includes the step of incorporating scripting language into said web page (col. 7, lines 1-20).

Regarding claim 28, Davis teaches the method of claim 25 further including the step of measuring responsiveness of said user to advertising information displayed by said web page (col. 3, lines 35-53).

Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Kurzke.

Regarding claim 23, Kurzke teaches a method for providing assistance to a user of an application program executing on a client computer, said method comprising the steps of:

monitoring user interaction with said application program in accordance with an associated monitoring profile (Abstract);

generating usage data based upon said monitoring (page 654, right column, paragraph 1);  
and

Art Unit: 2143

recommending to said user further interaction with said application program on the basis of said usage data (page 654, right column, paragraph 1).

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. 6,055,573 issued to Gardenswartz et al.
2. 6,112,240 issued to Pogue et al.
3. 6,321,256 issued to Himmel et al.
4. 6,006,260 issued to Barrick et al.
5. 6,078,956 issued to Bryant et al.
6. 6,115,742 issued to Franklin et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N Boutah whose telephone number is (703) 305-5104. The examiner can normally be reached on Monday-Friday (8:30 am-5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 2143

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

ANB

ANB

  
DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100